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Paper No. 9

In re Application of
Thomas Walsh
Application No. 10/008,635
Filed: December 4, 2001
Attorney Docket No. LAM2P232A

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: DECISION ON PETITION
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This is a decision on the petition filed on April 19, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a proper and timely reply to the final Office action dated August 8, 2003 (not October 29, 2003 as stated in the Notice of Abandonment). The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because a timely and proper reply to the final Office action was in fact filed. Petitioner has supported this allegation by furnishing a copy of the reply and a copy of a filing receipt for the reply which shows that the reply was in fact received in the Office on November 21, 2003, a date within the period set by the August 8, 2003 Office letter for filing a reply thereto, as extended by the one month extension of time requested in the reply. As the reply is a Request for Continued Examination (RCE) under 37 CFR 1.114, the reply is a proper reply to the final Office action. In addition, Office financial records show that the fees for the extension and for the RCE have in fact been received and applied.

Based on the evidence furnished by petitioner, it is clear that this application is not abandoned. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the examiner for action on the RCE filed on November 21, 2003.

PETITION GRANTED.

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